IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 4769 of 2001

For Approval and Signature:

Hon'ble MR.JUSTICE M.R.CALLA
and
Hon'ble MR.JUSTICE N.G.NANDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

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RAJ ENGINEERS

Versus

UNION OF INDIA

Appearance:

MR PARESH M DAVE for Petitioner No. 1-2

MR MUKESH R SHAH for Respondents on advance copy

CORAM : MR.JUSTICE M.R.CALLA
and
MR.JUSTICE N.G.NANDI

Date of decision: 02/07/2001

ORAL JUDGEMENT

(Per : MR.JUSTICE M.R.CALLA)

1 Rule. Mr. M.R.Shah waives service of rule on behalf of respondents.

2. Learned counsel for the petitioners has submitted that the petitioners' appeal alongwith the stay Application against the order dated 19.4.2001 issued on 10.5.2001 by the Commissioner of Customs and Central Excise (Appeals), Rajkot, is pending before the Customs, Excise & Gold (Control) Appellate Tribunal, Mumbai.

3. It is the common case of the parties that the said Appeal is pending alongwith stay Application, as was filed on 2.6.2001. Learned counsel for the petitioners has submitted that coercive steps are being taken for the recovery during the pendency of the aforesaid Appeal alongwith stay Application. Mr. M.R.Shah has submitted that no coercive steps whatsoever have been taken.

4. Learned counsel for the petitioners has invited our attention to two orders passed earlier by the Division Bench in Special Civil Application No.1847/2001 on 21.3.2001 and in Special Civil Application No.2959/2001 and others decided on 25.4.2001, copies of which have been annexed with this Special Civil Application collectively as Annexure "A". It has been submitted that identical orders be passed in this case also. This request of Mr. P.M.Dave is not opposed by Mr. M.R.Shah. Accordingly we order that -

Until the Application for stay submitted by the petitioners is heard and decided, the respondent authority shall not take any coercive steps for recovery of the amount in question payable by the petitioners under the impugned order. The Customs, Excise & Gold (Control) Appellate Tribunal, Mumbai i.e. the Appellate Authority is also directed to decide and dispose of the stay Application as expeditiously as possible and preferably within a period of eight weeks from today. The period of eight weeks has been granted on the statement made by Mr.M.R.Shah that one of the Benches of the CEGAT is not functioning for past few months. This petition is allowed to this limited extent and rule is made absolute accordingly.

(M.R.Calla,J)

(N.G.Nandi,J)